



Regulating Inland Commercial Vessels

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South Carolina Department of Natural Resources

2017-2018

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Abbreviations

CFR:	Code of Federal Regulations
CG:	U.S. Coast Guard
MMC:	Merchant Mariner Credential
NM:	Nautical Mile
PFD:	Personal Floatation Device
UPV:	Uninspected Passenger Vessel
SCDNR:	South Carolina Department of Natural Resources
LE:	Law Enforcement
USC:	United States Code
STCW:	Standard Training and Certification Watchstanding

Overview

This document applies to U.S. uninspected passenger vessels (UPV's) that do not carry freight for hire. For the purpose of this research UPV's are often referred to as commercial vessels. Any vessel operating on public waters in the state of SC is required to adhere to the regulations set by the Coast Guard (CG). The Coast Guard has published a summary of all requirements for vessels for hire; these guidelines are available in paper form as well as online. These documents have been developed to assist UPV owners and operators as well as Coast Guard Mariner Inspectors, Examiners and Boarding officers during dockside or at-sea examinations of UPV's. Basic requirements set by the CG require any vessel for hire operating inside three nautical miles of the coasts shoreline to complete testing and hold a valid Merchant Mariner Credential (MMC) commonly referred to as a Captains license. A MMC credential is issued by the Coast Guard under 46 CFR part 10. It combines the individual merchant mariner's document, license, and certificate of registry enumerated in 46 U.S.C. subtitle II part E as well as the STCW endorsement into a single credential that serves as mariner's qualification document, certificate of identification, and certificate of service. (Ref. Requirements for Uninspected Passenger Vessels) This license is similar to a passport in appearance and contains all information deemed necessary by the Coast Guard in order to validate that the Captain has successfully met and continues to meet all requirements to possess a MMC. All licensed Captains are required to complete random drug testing as well as physicals to insure safety of all passengers and crew members. All Captains and crewmembers employed are subject to Pre- Employment, Periodic, Random and Reasonable Cause drug testing. A person is also prohibited from operating UPV's while intoxicated. A person operating

a UPV is considered intoxicated if his or her blood alcohol content, BAC, is .04 or more by weight. This differs from the current .08 BAC for personal vessels. Captains are not allowed to consume alcohol four hours prior to operating a UPV.

Commercial vessels carrying six or less passengers are not subject to inspection by the Coast Guard and this is to include at least one passenger for hire, or chartered with the crew provided by the owner or owner's representative. Any vessel carrying more than six passengers must be inspected by the Coast Guard annually.

UPV's have differing safety equipment requirements than personal vessels. All UPV's must carry at least one CG approved **TYPE I PFD** of suitable size for each passenger. Each PFD must have an approved Type I retro reflective material with at least 200 sq. cm. of material on the front and back. Additional Type II or Type III PFD's may be carried; however, they must be stowed separately and they cannot substitute for the required Type I PFD's. All UPV's 26 feet or longer must have at least one CG approved orange or white throwable ring life buoy with a minimum outside diameter of 20 inches.

To determine what would deem a vessel to be operating in a commercial capacity would include but is not limited to: any consideration of an economic benefit, inducement, right or profit including monetary payment going to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage, by monetary compensation of fuel, food, beverage, or other supplies. (Ref. Requirements for Uninspected Passenger Vessels)

Introduction

The South Carolina Department of Natural Resources (SCDNR) is a state agency that is composed of five (5) divisions: Wildlife and Freshwater Fisheries (WFF), Land and Water Conservation (LWC), Marine Resources Division (MRD), Outreach and Support Services (OSS) and the Law Enforcement Division (LED). The agency's mission is to serve as the principle advocate for and steward of South Carolina's natural resources. As part of that mission, the Law Enforcement Division has the primary responsibility of enforcing hunting, fishing and boating statutes across the state. The Law Enforcement Division of SCDNR is separated into four regions with Region 4 covering coastal waters. Regions 1, 2 & 3 are inland and have waterways assigned to their marine patrols.

I have been employed with the agency's Law Enforcement Division since October 2, 2007. I was promoted to First Sergeant over Region IF Edgefield and McCormick Counties in January of 2014. My management responsibilities include scheduling, equipment maintenance, inventory, insuring each officer is compliant with current educational requirements and updates, disciplinary action, and yearly EPMS evaluations on each officer concerning their performance and areas that need to be improved upon. As an active manager in the field I also continue to work alongside the officers that I manage in order to evaluate their hands on performances and identify areas that need improvement and/or educate them in areas they may be unfamiliar with. It is also my responsibility to ensure that each office is extremely familiar with the geographic areas that we cover in order to maintain as fast a response time as possible in the case of an emergency or officer in distress.

Problem Statement

Throughout my ten years working in the field, as well as supervising officers, I have seen a significant rise in the number of commercial vessels on our state's inland lakes. It's often asked of me by both officers and the public what requirements and laws govern Uninspected Passenger Vessels (UPV). This has always been a question that I have no factual answer for. When I began supervising I found that a large number of commercial activities on my assigned lakes were rumored to be operating without a required Captains license from the Coast Guard (CG). When asked by the public and current Law Enforcement officers there were no clear answer as to how to report or who was responsible for the Enforcement of commercial vessels inside the freshwater/saltwater dividing line. As the Law Enforcement Division of SCDNR we are often looked to for accurate and timely responses when complaints are made concerning any activity that may be taking place illegally. Currently the SCDNR Law Enforcement Division does not have a field guide for this topic. Many officers have agreed that they would benefit from a reporting guide as well as a State Law allowing them to enforce Commercial Vessel's regulations at a state level. During the initial stages of my research I also found that there isn't a clear understanding of the basic requirements and licenses needed for someone to operate a vessel for hire. I feel SCDNR should have a set of standards developed and a form to follow allowing Law Enforcement officers to gather all pertinent information needed including contacts, email and fax numbers to forward information to the USCG so that complaints can be followed up on by the proper authorities.

On inland waterways commercial activities are taking place without proper license being obtained. From a safety stand point passengers are entrusting someone to guide them on waterways who could potentially not have the proper safety equipment or training needed to operate the vessel safely. Most illegal charters are operating without these licenses to avoid the small cost of the license as well as reporting requirements, business license, physicals and random drug testing required to hold a MMC. Illegal charters also fail to report their trips in an effort to avoid paying taxes on income made. As an advocate for and steward of the natural resources of South Carolina I feel that an effort should be taken to ensure compliance across the state on all vessels operating in a commercial capacity without the proper credentials.

Data Collection & Analysis

To determine what data was necessary during the process of my project I reached out to the CG to determine what enforcement capabilities are possible, if any, at the state level. I also communicated with LE officers throughout the agency to gain knowledge of their concerns and ideas on a field guide to report possible illegal activities; I used a survey which was sent to all Inland Regions (Regions 1,2 &3) to determine if there was a trend across the states inland waterways. Region 4 was excluded from this survey because they are assigned to coastal counties and have laws in place allowing state level enforcement of salt water commercial vessels (SC Code of Laws 50-9-540). The survey asked questions to determine geographic locations, number of commercial vessels operating on their assigned body or bodies of water, if there is a possible need for a state issued permit for commercial vessels and an open ended question to gather additional information concerning what they felt was needed to improve the

regulation and reporting of illegal commercial activities on inland lakes and rivers. Two meetings were set at the CG headquarters in Charleston, SC to determine basic requirements for commercial vessels as well as the current agreement between agencies concerning commercial activities inland. During the second meeting, hosted by Lieutenant J.B. Zorn, supervisors from all four regions of SC met at the Coast Guard headquarters in Charleston along with their commanding staff to discuss current agreement between agencies (MOA) and possible future enforcement efforts.

Law Enforcement Survey Regions 1, 2 and 3

Of the surveys sent I received 37 responses from current law enforcement officers. Attached are the full survey questions including the respondents' answers; the questions asked were:

- Do you patrol an Inland Lake in SC?
- Which Inland Lake do you patrol?
- Approximately how many vessels for hire are on the lake/lakes you've been assigned?
- Approximately how many of the advertised vessels for hire are licensed USCG Captains?
- Do you currently enforce any regulations on commercial vessels for hire (CPT license, safety equipment, BUI)?
- Are you aware that commercial vessels for hire have different regulations than a personal vessel? Do you feel that we, SCDNR LE, should be enforcing regulations on commercial vessels on Inland waters?

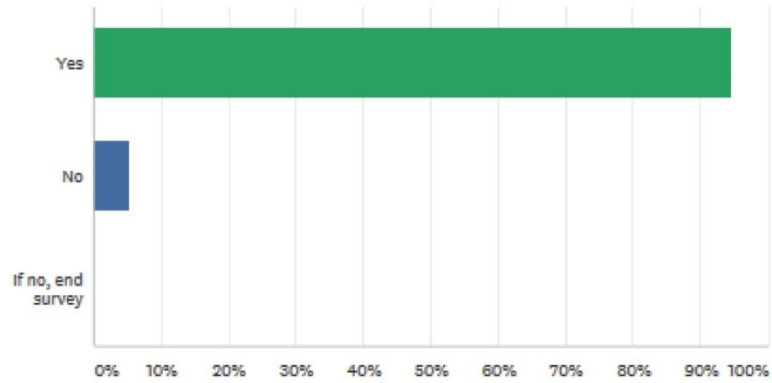
- Do you feel that it would be beneficial to have a reporting guideline in place to document illegal commercial vessels to the USCG?
- In addition to the Information provided above do you feel there is any additional information you should share to assist in the regulation of commercial vessels on Inland waters.

A review of the survey answers indicated that 94.59% of officers surveyed were currently assigned to an inland waterway. Of the inland lakes and waterways listed were Lake Thurmond, Greenwood, Russell, Hartwell, Secession, Murray, Keowee, Jocasee, Wateree, Lyman Cooley, Robinson, Bowen, Blalock, Saluda Lake, Lake Cunningham Broadway and Lake Marion. When asked how many vessels for hire ore on their assigned body/bodies of water 30.56% answered 1-5, 11.11% answered 6-10, 16.67% answered 11-15, 5.56% answered 16-20 and 36. answered

20 or more.

Do you patrol an Inland lake in SC?

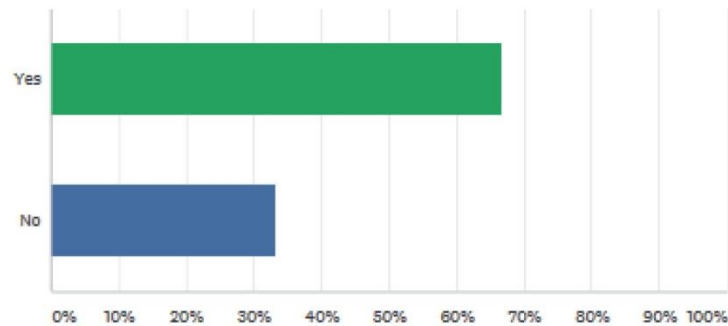
Answered: 37 Skipped: 0



ANSWER CHOICES	RESPONSES	
▼ Yes	94.59%	35
▼ No	5.41%	2
▼ If no, end survey	0.00%	0
TOTAL		37

Do you currently enforce any regulations on commercial vessels for hire?
(CPT license, safety equipment, BUI)

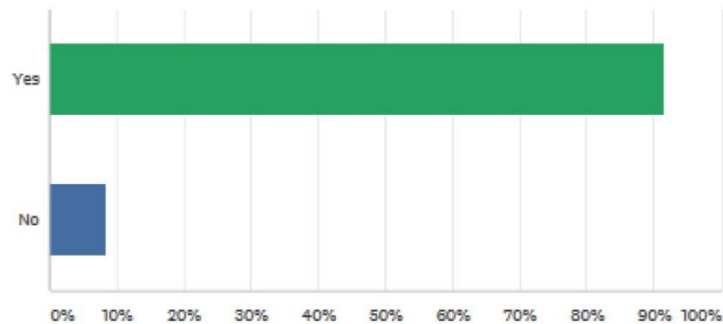
Answered: 36 Skipped: 1



ANSWER CHOICES	RESPONSES	
▼ Yes	66.67%	24
▼ No	33.33%	12
TOTAL	36	

Are you aware that commercial vessels for hire have different regulations than a personal vessel?

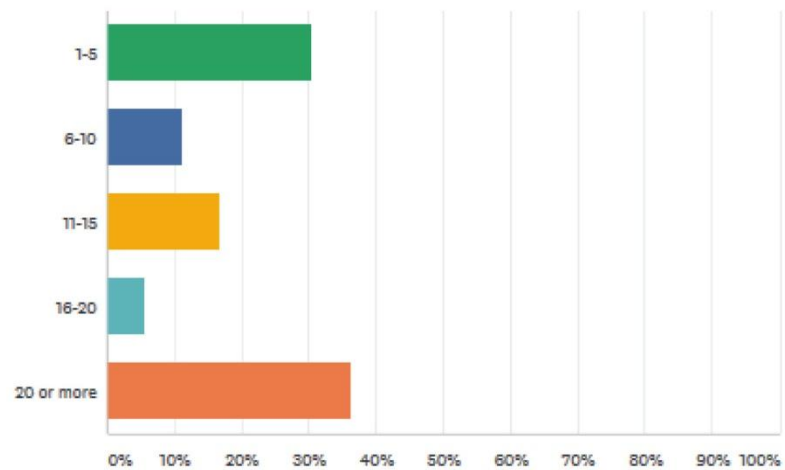
Answered: 36 Skipped: 1



ANSWER CHOICES	RESPONSES	
▼ Yes	91.67%	33
▼ No	8.33%	3
TOTAL	36	

Approximately How many vessels for hire are on the lake/lakes you've listed?

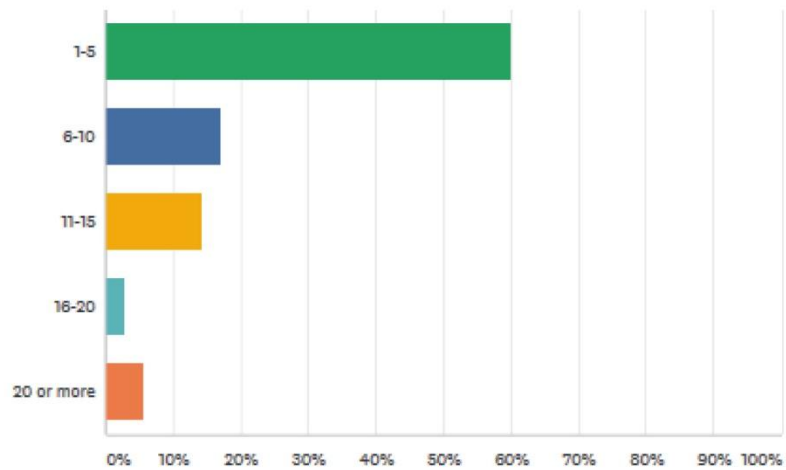
Answered: 36 Skipped: 1



ANSWER CHOICES	RESPONSES	
▼ 1-5	30.56%	11
▼ 6-10	11.11%	4
▼ 11-15	16.67%	6
▼ 16-20	5.56%	2
▼ 20 or more	36.11%	13
TOTAL		36

Approximately how many of the advertised vessels for hire are licensed Captains?

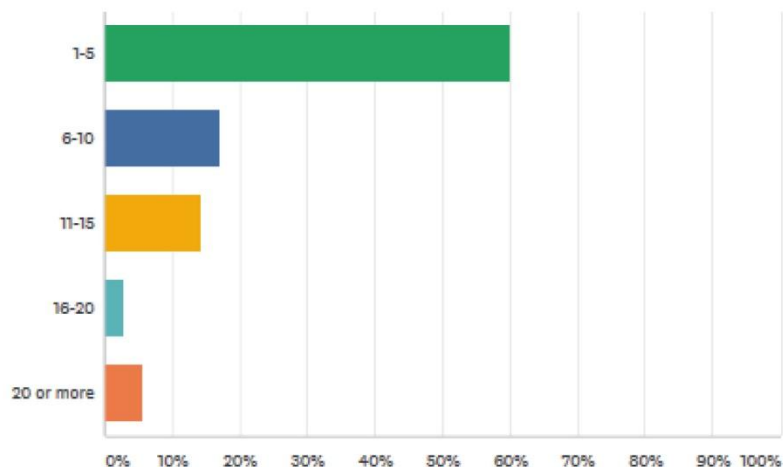
Answered: 35 Skipped: 2



ANSWER CHOICES	RESPONSES	
▼ 1-5	60.00%	21
▼ 6-10	17.14%	6
▼ 11-15	14.29%	5
▼ 16-20	2.86%	1
▼ 20 or more	5.71%	2
TOTAL		35

Approximately how many of the advertised vessels for hire are licensed Captains?

Answered: 35 Skipped: 2



ANSWER CHOICES	RESPONSES
▼ 1-5	60.00% 21
▼ 6-10	17.14% 6
▼ 11-15	14.29% 5
▼ 16-20	2.86% 1
▼ 20 or more	5.71% 2
TOTAL	35

The last question asked in the survey was an open ended question allowing officers to provide any additional information that could assist in the regulation of commercial vessels on Inland waters. Of the 37 surveys, 15 responded as follows:

- Get it done so we can enforce, I don't think the Coast Guard will come inland.
- Anything to make it as streamline as possible. Maybe an app on the phone to submit issues or report problem.

- Guides should have to be registered with DNR as well; USCG and DNR jurisdiction needs to be clearer.
- This sort of thing should be a state enforced issue in accordance with Amendment X of the USCG. Understood that interstate commerce is a federal issue, but the states agreed to it.
- Should be offered and inland license instead of general license. And it has to be enforced state wide.
- The Coast Guard should be regulating these vessels rather than SCDNR.
- We need to cover these regulations PRIOR to Memorial Day weekend or when the Striped bass start running.
- Fishing guides make yearly reports on number of customers and fish taken.
- There is also commercial activity on Inland river systems in SC as well as lakes; striper fishing, cat fishing, etc.
- 6 responded N/A or No comment.

Having gathered information from these officers, as well as commanding officers inside the CG, it became very evident that there is a need for a clear description of basic requirements for commercial vessels for field officers. In addition a reporting guideline is needed for officers to effectively gather necessary information, and a clear means of communication with the regulating authorities for suspected illegal activity concerning commercial vessels on inland waters including river systems. Three key trends were apparent in the data collected. First as seen in questions 3 and 4 there is a significant decrease in the number of licensed guides in

comparison to the number that are advertised or known on inland waterways. Second, when officers were asked if they were aware commercial vessels have different standards for safety equipment and BAC levels, nearly 96% of officers answered yes but only 66% are enforcing these differences in safety equipment requirements. Last, I found that over 92% of officers feel there is a need for a guideline as well as a state issued permit for inland commercial vessels allowing them to have a legal means to inspect vessels involved in commercial capacity. At minimum it is easy to see that there is a statewide need for a proper form that can be filled out by officers in the field when confronted with illegal commercial activity on Inland lakes and rivers. At the submission of this paper I have worked with the CG and SCDNR staff to develop a form that can be carried by all officers. This form will be a method in which the LE officers of SCDNR can use to accurately obtain information that is pertinent for the CG to follow up with their own investigation. Also, officers across the state who are assigned to inland waters have shown a desire for SCDNR LE to require a State issued permit for commercial vessels inside the saltwater/freshwater dividing line allowing SCDNR LE officers the enforcement capabilities of these vessels. SC Code of Laws 50-21-170 has adopted the CFR allowing SCDNR LE to enforce safety regulations on commercial vessels (Code of Laws of South Carolina, 1976).

Implementation Plan

At the time of submission of this paper, I have worked with the Coast Guard to develop a form which includes specific directions on gathering information their command staff have deemed pertinent for their investigation of an illegal commercial vessel (See Attachment). This form is relatively easy to fill out and would require minimum effort at no

cost to our agency. This form will allow SCDNR LE division to assist the Coast Guard to insure compliance and license requirements are being met.

Potential obstacles to this plan are that officers may feel the effort is not worth the time invested resulting in resistance and low buy in. In evaluation of the survey results there is a small amount of officers that both did not know there were separate guidelines for UPV's and do not see the need to develop or enforce such guidelines. This could result in initial resistance to any new processes or forms that are developed to help better regulate this issue. However, with over 90% of those surveyed voicing both the need for guidelines and the need for enforcement, the resistance that is met should be minimal and short lived. South Carolina Code of Laws 50-21-170 has adopted the CFR allowing SCDNR LE to enforce safety regulations on commercial vessels. SC Code of Laws 50-9-540 (D) requires all charter vessels operating in the salt waters of this state to purchase annually one of three licenses for each vessel engaged in a commercial capacity. These licenses range from one hundred and fifty dollars to three hundred and fifty dollars depending on number of passengers. I feel it would be beneficial to amend 50-9-540 to include a subsection for inland waterways (Code of Laws of South Carolina, 1976). This would give SCDNR LE officers an enforcement tool and allow the Coast Guard to annually review this list to determine compliance with their issued license and annual requirements.

Evaluation Methods

At the completion of this plan I feel it would be valuable to survey the same officers after Labor Day of 2018 to determine how many officers have utilized the form available and determine if they feel it has been helpful regarding complaints and citing of illegal commercial vessels. The survey should be specific and allow officers to express any improvements they've seen in the process. I feel that after more officers buy into this process and participation rises the process will show more areas for future improvements. If reporting is done correctly a state wide decrease in the number of illegal vessels should be evident.

Summary and Recommendations

South Carolina Department of Natural Resources Law Enforcement division has always prided themselves in assisting other agencies when needed. Officers within the agency always find time and are willing to put forth extra effort afield when answering complaints from the public.

The ultimate goal is to ensure safety on SC waterways and protect the resources that are at times are exploited by illegal guide services. In order to provide that, it is critical to implement a plan that will allow both the SCDNR LE division and the USCG to work together in the investigation of commercial vessels while maintaining a professional approach. The Reporting form will allow officers with minimal effort to assist the Coast Guard.

References

- Code of Laws of South Carolina, 1976 (As affected by the 2015 Session of the General Assembly)
- Requirements for Uninspected Passenger Vessels (Revised July 2014)
- COMDTINST 16210.1C
33 CFR Subpart 2.05
- USCG-DNR MOA 2014 (referred to as “MOA”)
- SC Section 50-21-170 NVIC 01-15

Officer Reporting Form

U. S. COAST GUARD SECTOR CHARLESTON	
NOTICE OF POTENTIAL ILLEGAL CHARTER REPORT FORM	
Please provide the Coast Guard as much timely, credible and specific information as possible	
ALL reports are CONFIDENTIAL, unless otherwise agreed upon.	
REPORTING PARTY INFORMATION	
Date/Time of Report:	Phone:
Reporting Party Name/Association:	
Reporting Party Email Address:	
SIGHTING DETAILS	
Date/Time of Sighting:	
Location of Sighting or nearest Marina:	
Name of Vessel:	
Vessel ID/Registration Number:	Photographs: Y/N?
Number of People Onboard:	
Vessel Description/Length/Hull Color:	
Name of Operator/Company:	
Description of Operator/Company:	
Descriptive Information (Activity you observed):	
Known Advertisements: (i.e., Facebook, Marina Flyer/Business cards, Word-of-mouth)	
Why do you believe this is an illegal charter?	

CONTACT INFORMATION
Sector Charleston Investigations Division: 843-740-3180 x3332 or x3335 (Best during work hours)
Sector Charleston Fax: 843-740-3189
Sector Charleston Email Contact: James.B.Zorn@uscg.mil (Preferred submission method)
Sector Charleston Command Center (24hrs) 843-740-7050 (Best for after-hours & urgent reports)
Form Rev. Jan 2018

USCG and SCDNR

MOA and Commercial Operation Talking Points

- 1) There needs to be a working list of what bodies of water USCG has jurisdiction over in SC.
 - A. If body of water is currently deemed under USCG jurisdiction, will it hold up in court or possibly be overturned due to the body of water being dammed or other reason since the ruling of establishment of jurisdiction was made. Ex. Saluda River was for fur trade until Dreher Shoals Dam was constructed in the 1920s to form Lake Murray. Lake has no lock system.
 - B. What laws cover bodies of water already deemed not under USCG Jurisdiction. Ex. Parr Reservoir or Lake Monticello and others? See MOA 4. B. on page 1.
 - i. Can SCDNR make charges under 50-21-170 if that body water is not under USCG jurisdiction or do we need separate state laws?
 - ii. If cases can't be made under 50-21-170 on these lakes, what about cases already made?
 - iii. Also need laws on waters not under USCG jurisdiction that allows SCDNR to enforce and require MML for commercial captains, safety equipment enforcement and require uninspected commercial vessels, state registered vessels used for commercial purposes including but not limited to guides, tour boats, barges for stages at floating concerts, Uber , vessels carrying six passengers or less for commercial purposes and USCG documented and USCG inspected vessels. You could encounter a USCG inspected vessel on a body of water that is not under USCG jurisdiction. Would the state have to come up with it's own MML license for these bodies of water? See MOA 5. A.9. on page 3.

- 2) Can county and city law enforcement agencies perform any of the inspections that are currently listed in the current USCG and SCDNR MOA when they are in their jurisdiction?

Suggestions for Possible Improvements

- Pass new title 50 state laws that mirror the USCG laws in regards to recreational AND commercial vessels on all public waters of the state. This takes navigability and other court opinions out of the equation. USCG would maintain primary responsibility for commercial matters seaward of the current demarcation line and SCDNR would have primary responsibility inland. Both USCG and SCDNR would still have concurrent jurisdiction in all the waters that are deemed under the jurisdiction of the United States.

There needs to be an agreement reached by both USCG and SCDNR on how to address the problems we face now as well as how to fix them in the near future. These problems are not the fault of the USCG or SCDNR, they stem from the changing times and how the waters in SC are being used now. These laws need to change with the times to ensure safety for those that use the waters of SC. Floating concerts have become more common and will only get bigger. Now is the time to address these issues, not after something tragic happens. As of now, there are no special requirements for commercial boat "captains" on much of the public waters of the state that are not deemed waters of the United States. This means no MML requirement, no drug testing, no criminal background check, no .04% BAC threshold and no insurance required to cover anyone injured on the commercial boat. Many commercial operators do not have business licenses, guide insurance or report earnings to IRS because they are not held accountable and undercut real captains that follow the laws and rules that are in place. Why is someone's safety more important on a commercial vessel on Lake Moultrie than it is on Lake Monticello?

FSGT Hunter Robinson

SCDNR Law Enforcement Region 3

MEETING SIGN-IN SHEET

Project: USCG-DNR Investigators Meeting
Facilitator: LT J.B. Zorn, USCG (843) 296-5524

Meeting Date: November 13, 2017
Place/Room: USCG Sector Charleston

Name	Title	Company/Region	Phone	E-Mail
D.M. McCaskill	Capt.	SCDNR/Region 2	843 616 3277	mccaskill@dnr.sc.gov
BM Corbett	Lt.	SCDNR/Reg 3	(803) 609-6839	corbettb@dnr.sc.gov
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Michael Paul Thomas	LT	SCDNR Reg 4		
Betty Camins	Chief	USCG	843-449-4173	
KRISTIN METZLER	MST2	USCG	843-449-4173	
Bryan Johnson	Mr.	USCG	843-740-3180 x3552	bryan.d.johnson@uscg.mil